

United States District Court

for the

Eastern District of Washington

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Dec 19, 2017

SEAN F. MCAVOY, CLERK

Petition for Warrant or Summons for Offender Under Supervision

Name of Offender: Rusty Lee Garcia

Case Number: 0980 2:11CR02094-EFS-1

Address of Offender: [REDACTED], Spokane, Washington 99205

Name of Sentencing Judicial Officer: The Honorable Edward F. Shea, Senior U.S. District Judge

Date of Original Sentence: January 26, 2012

Original Offense: Felon in Possession of a Firearm, 18 U.S.C. § 922(g)(1)

Original Sentence: Prison - 77 months
TSR - 36 months

Type of Supervision: Supervised Release

Asst. U.S. Attorney: Thomas J. Hanlon

Date Supervision Commenced: August 18, 2017

Defense Attorney: Federal Public Defender

Date Supervision Expires: August 17, 2020

PETITIONING THE COURT

To issue a warrant and to incorporate the violation(s) contained in this petition in future proceedings with the violation(s) previously reported to the Court on 09/26/2017, 10/18/2017 and 12/6/2017.

The probation officer believes that the offender has violated the following condition(s) of supervision:

<u>Violation Number</u>	<u>Nature of Noncompliance</u>
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Standard Condition # 3: The defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer.

Supporting Evidence: On August 18, 2017, Mr. Rusty Garcia signed his conditions of supervision relative to case number 2:11CR02094-EFS-1, indicating he understood all conditions as ordered by the Court. Specifically, Mr. Garcia was made aware by his U.S. probation officer that he was required to answer truthfully all inquiries by his assigned probation officer, and follow the instructions of his probation officer.

Mr. Garcia is alleged to have violated standard condition number 3 by failing to report as directed.

Specifically, on December 13, 2017, the undersigned officer received notification from Pioneer Human Services (PHS) that Mr. Garcia had failed to report for urinalysis testing as required. On December 15, 2017, contact was attempted by the undersigned officer and both a voice mail and a text message was left for the client directing him to report to the U.S. Probation Office by close of business on that date. Mr. Garcia failed to report as directed.

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On December 18, 2017, the undersigned officer again received notification from PHS, who indicated the client had again failed to appear for random urinalysis testing with the entity on December 15, 2017. On December 18, 2017, The undersigned officer was able to make telephonic contact with the client who indicated he had received this officer's voice mail directing him to report, but by the time he received it, it was too late for him to report to the building. Mr. Garcia was again directed to report to U.S. Probation by 1 p.m. that date, which he agreed to do. Mr. Garcia again failed to report as directed, and on December 19, 2017, a voice mail was received from the client apologizing for his failure to report as directed and asking for time until Thursday to get his affairs in order.

5 **Special Condition # 16:** Defendant shall abstain from the use of illegal controlled substances, and shall submit to urinalysis testing, as directed by the supervising officer, but no more than six tests per month, in order to confirm continued abstinence from these substances.

Supporting Evidence: On August 18, 2017, Mr. Rusty Garcia signed his conditions of supervision relative to case number 2:11CR02094-EFS-1, indicating that he understood all conditions as ordered by the Court. Specifically, Mr. Garcia was made aware by his U.S. probation officer that he must refrain from any unlawful use of a controlled substance, and that he must attend random urinalysis testing based on a color system at the contract provider when his color was called.

Mr. Garcia is alleged to have violated special condition number 16 by failing to report to PHS on December 12 and 15, 2017, for urinalysis testing.

Specifically, on December 13 and 18, 2017, the undersigned officer received notification from PHS indicating that the client had failed to attend random urinalysis testing with the provider as required on December 12 and 15, 2017, respectively.

The U.S. Probation Office respectfully recommends the Court to incorporate the violation(s) contained in this petition in future proceedings with the violation(s) previously reported to the Court on 09/26/2017, 10/18/2017, and 12/6/2017, and that the Court issue a warrant requiring the offender to appear to answer to the allegations contained in this petition.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: December 19, 2017

s/ Chris Heinen

Chris Heinen
U.S. Probation Officer

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THE COURT ORDERS

- ☐ No Action
- ☒ The Issuance of a Warrant
- ☐ The Issuance of a Summons
- ☒ The incorporation of the violation(s) contained in this petition with the other violations pending before the Court.
- ☐ Defendant to appear before the Judge assigned to the case.
- ☒ Defendant to appear before the Magistrate Judge.
- ☐ Other



Signature of Judicial Officer

December 19, 2017

Date